05-44481-rdd Doc 8975-1 Filed 08/09/07 Entered 08/09/07 14:10:14 Exhibit A Pg 1 of 4

B 10 (Official Form 10) (04/07)			
UNITED STATES BANKRUPTCY COURT SOUTHERN	<u>U</u> DISTRIC	CT OF NEW YORK	PROOF OF CLAIM
Name of Debtor Delphi Corporation	Case Numi 05-444	81	
NOTE: This form should not be used to make a claim for an adminis "request" for payment of an administrative expense may be filed purs	uant to 11 U.	S.C. § 503.	
Name of Creditor (The person or other entity to whom the debtor owes money or property): Secretary of Labor on behalf of the Delphi Personal? Saving Plan for Hrly Employees in the U.S.	claim relat	ox if you are aware that anyone else has filed a proof of ing to your claim. Attach copy of statement giving	
Name and address where notices should be sent: Phyllis Dolinko, Senior Trial Attorney U.S. Department of Labor - Office of Solicitor	☐ Check be bankruptey	ox if you have never received any notices from the y court in this case.	THIS SPACE IS FOR
230 S. Dearbor St., 8th Fir, Chicago, IL 60604 Telephone number: (312) 353-6973		oox if the address differs from the address on the envelope a by the court.	COURT USE ONLY
Last four digits of account or other number by which creditor identifies debtor:	Check her if this clair	NO /4	1/2006
1. Basis for Claim □ Personal inju □ Goods sold □ Taxes □ Services performed ✔ Retiree benef		below) Last four digits of yo	•
Money loaned Other		From(date)	to (date)
2. Date debt was incurred:		3. If court judgment, date obtained:	
Unsecured Nonpriority Claim \$ 3,232,133 d'Check this box if: a) there is no collateral or lien securing your claim exceeds the value of the property securing it, or c) none configure claim is entitled to priority. Unsecured Priority Claim Check this box if you have an unsecured claim, all or part of whice entitled to priority. Amount entitled to priority \$	or only part	Secured Claim Check this box if your claim is secured by collateral Brief Description of Collateral: Real Estate Motor Vehicle Value of Collateral: Amount of arrearage and other charges at time case filed any: \$	included in secured claim, if
Specify the priority of the claim: Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or Wages, salaries, or commissions (up to \$10,950),* earned within before filing of the bankruptcy petition or cessation of the debtor's b whichever is earlier - 11 U.S.C. § 507(a)(4). Contributions to an employee benefit plan - 11 U.S.C. § 507(a)	n 180 days ousiness,	 Up to \$2,425* of deposits toward purchase, lease, or or services for personal, family, or household use - I Taxes or penalties owed to governmental units - 11 U Other - Specify applicable paragraph of 11 U.S.C. § *Amounts are subject to adjustment on 4/1/10 and everespect to cases commenced on or after the date of adjust 	1 U.S.C. § 507(a)(7). I.S.C. § 507(a)(8). 507(a)(). ery 3 years thereafter with
	3,232,13		232,133
5. Total Amount of Claim at Time Case Filed: Check this box if claim includes interest or other charges in add charges.	(unsecured	(secured) (priority)	(total)
6. Credits: The amount of all payments on this claim has been or			THIS SPACE IS FOR COURT USE ONLY
 Supporting Documents: Attach copies of supporting document statements of running accounts, contracts, court judgments, mortgag SEND ORIGINAL DOCUMENTS. If the documents are not availa Date-Stamped Copy: To receive an acknowledgment of the copy of this proof of claim. 	ges, security a able, explain.	greements, and evidence of perfection of lien. DO NOT if the documents are voluminous, attach a summary.	
Date Sign and print the name and title if any of power of attorney, if any): 2 HY 1 (6 F. T.	of the credito	or or other person authorized to file this claim (attach copy	٠.

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

DELPHI CORPORATION, Ch. 11, Case No. 05-44481

ATTACHMENT TO THE SECRETARY OF LABOR'S AMENDED PROOF OF CLAIM AMENDING CLAIM NO. 15135 ON BEHALF OF THE DELPHI PERSONAL SAVINGS PLAN FOR HOURLY RATE EMPLOYEES IN THE UNITED STATES

On behalf of the Delphi Personal Savings Plan for Hourly Rate Employees in the United States (the Delphi Plan), Elaine L. Chao, Secretary of Labor (the Secretary), files this amended unsecured claim for amounts owed to participants of the Delphi Plan as a result of the failure of the Delphi Corporation (Delphi) to comply with the fiduciary provisions of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. 1001, et seq.

The Secretary of Labor is charged with the enforcement of the fiduciary requirements of ERISA, including the institution of actions in federal district court for injunctive relief and restitution to employee benefit plans. Under her statutory authority, the Secretary has initiated an investigation of the Delphi Plan, of which the Delphi was the sponsor and a fiduciary. The Delphi Plan is an employee benefit plan within the meaning of ERISA 3(3), 29 U.S.C. 1002(3), which is subject to the provisions of Title I of ERISA pursuant to ERISA 4(a), 29 U.S.C. 1003(a).

The Secretary asserts that the during the period from March 10, 2000 though December 2002, Delphi failed to follow the Delphi Plan document by investing the dividends of the General Motors (GM) stock held in participants' accounts into the General Motors Stock Fund(GMSF) rather than into the Promark Income Fund (PMIF); failed to prudently monitor Fidelity Institutional Investment Services, Inc. (Fidelity), its agent authorized to invest the GM stock dividends; and failed to make participants whole upon the discovery that GM stock dividends were incorrectly invested. As a result of Delphi's fiduciary violations, the Delphi

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Plan's participants incurred \$3,233,417.50 in losses. The Secretary's Computation of Total Losses Owed is attached hereto and made a part hereof as Exhibit A.

The Secretary's investigation is continuing. She has not yet determined the full extent of ERISA violations involving Delphi Corporation. The Secretary files this Amended Proof of Claim to protect her interests, those of the Plan and of its participants. This Amended Proof of Claim will, if necessary, be amended.

NOTE: Because this claim is made on behalf of the Delphi Savings Plan and its participants, the Secretary requests that <u>payment be made directly to the plan</u> and not to the Secretary.

As of

11/1/2005

Price of PMIF Price of GMSF

\$66.47 \$18.92

\$3,212,934.42 \$7,302,948.13 \$4,090,013.71

Difference

Source:

Historical Delphi Dividend Summary Fidelity Account Adjustment Sheets, Exhibit 12 in Fidelity's Letter dated 2/28/06.

Note

11/1/05 - Date of Correction

Total Owed Amount Paid

\$3,233,417.15 \$856,596,56

EBSA PREPARED WORK PAPER

DELPHI PERSONAL SAVINGS PLAN FOR HOURLY RATE EMPLOYEES IN THE U.S.

CASE NO. 52-011672

PREARED BY: INVESTIGATOR FRANK SCHNEIDER

PREPARED ON: 1.10.07

DEPARTMENT OF COMPANY OF THE	THE PLAN USING THE NOVEMBER 1, 2005 FUND FINE CO.
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	7, 2
Value of	005 FOND PRICES

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- Chair	Totals	12/10/2003	9/10/2003	0.1017000	6/10/2003	3/10/2003	12/10/2002	9/10/2002	6/10/2002	3/11/2002	12/10/2001	9/10/2001	6/11/2001	3/12/2001	12/11/2000	8/11/2000	07.2000	6/12/2000	3/10/2000	Payment	Dividend	Date of GM		
	1 \$5 926 195 48	\$338,649.09	\$343,365,03	50 00c 34ca	\$346.170.95	\$348,659,93	\$351,864.54	\$353,937.49	\$361,273.83	\$369,420.88	\$368,303.67	\$371,309.21	\$377,277.19	\$385,045,73	3300,077.00	00 073 000	\$305,013,29	\$394,411,39	\$430,797.26	Payment	GM Dividend	Alliouit	· ·	
		9117.07	\$ 100. T	\$00 AA	\$88.34	\$74.80	\$89.99	\$113.47	\$142.63	\$148.14	\$122.21	\$125.15	\$143.29	\$130.12	240045	\$125.29	\$180.46	\$167.32	\$187.15	Purchase	on Date of	1100	Price	GMSF
	48,337.29	1,000.	2 880 44	3.473.28	3,918.51	4,661.08	3,910,20	0,113.10	2,029.40	2,493.00	3,013.70	2,900.00	2,002.00	262201	2 787 67	3,102,18	2,188.91	2,357.20	2,301.88	- Ul Citabou	Durchased	Shares	GMSF	Total No.
	3,412,534,74	2 242 034 42	191 460 15	230,865.67	200,409.09	303,017,02	200 817 62	250 007 33	207 325 65	168 130 84	165 760 55	200 221 81	107 205 74	175 007 06	185.293.82	206,199.00	145,494.60	150,000.00	133,003.01	153 DO2 R1	11/1/2005	as of	GMSF	value or
	۲	1	(\$147,188.94)	(\$1.14,525.30)	(944, 500 05)	(895 711 38)	(\$38 842 31)	(\$91,957.21)	(\$146,611,84)	(\$193,142,99)	(\$203,660,33)	(\$167.981.86)	(\$174,103,47)	(\$202,270.13)	(\$199,751.91)	(\$182,473.00)	(\$C40,010,T0)	(\$240 518 40)	(\$337 730 51)	(\$277 793.45)	to 11/1/2005	From Orig. Price	Loss	
			\$17.30	617.00	\$17.09	\$16.88	\$16.65	\$16.42	\$16.17	\$15.89	\$15.61	\$15.33	\$15.08	\$14.84	\$14.00	94.4.00	87.4.38	\$14 16	\$13.96	\$13.74	Purchase	On Date of	71106	
٠		385,925.48	18,575,55	10 275 02	20.209.78	20,510.44	20,938.14	21,429.89	21,887.41	22,733.26	23,670.06	24,023.08	24,621.36	25,423.75	20,000,70	26 366 45	27.031.99	27,890.81	28,262.64	31,350.59	Pulcilased	O TOTAL OF	Shares	PS
		\$7,302,946.13	40.0.00		\$382,433.87	\$388,123.32	\$396,216.78	\$405,522.21	\$414,160.01	\$430,186.21	\$447,913.47	\$454,593.74	\$465,915.12	9401,000.01	0.000 000 01	\$498.937.82	\$511,531.97	\$527,783.60	\$534,819.82	\$593,233.74	200000	14/4/2005	as of	PMT
		\$1,370,736,00	ŀ	\$31.788.41	\$37,044.84	\$41,952.57	947,000.00	933,007.70	27.732.039	200,372,00	9/0/49/JO	\$70,000,50	#86 300 07	COA 605 01	\$103 821.72	\$113,892.09	\$122,859.97	\$132,//0.31	\$ 140,400.40	6440 400 43	\$165 456 48	to 11/1/2005	From Orig. Price	Gain